

# HB3772



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3772

by Rep. Sue Scherer

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/224 new

Amends the Illinois Income Tax Act. Creates an income tax credit for taxpayers who make a qualified donation of a crop to a food bank or other charitable organization in Illinois. Provides that the amount of the credit shall be 15% of the value of the quantity of the crop donated. Provides that the credit is exempt from the Act's automatic sunset provision. Effective immediately.

LRB099 08122 HLH 28272 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by adding  
5 Section 224 as follows:

6 (35 ILCS 5/224 new)

7 Sec. 224. Crop donation credit.

8 (a) For taxable years beginning on or after January 1,  
9 2015, to the extent that such amounts have not been deducted  
10 for the purposes of calculating the taxpayer's federal adjusted  
11 gross income, each taxpayer that makes a qualified donation of  
12 a crop is allowed a credit against the tax imposed by  
13 subsections (a) and (b) of Section 201. In the case of a  
14 qualified donation made under circumstances described items  
15 (1) or (2) of the definition of "qualified donation" set forth  
16 in subsection (d) of this Section, the amount of the credit  
17 shall be 15% of the value of the quantity of the crop donated  
18 computed at the wholesale market price. In the case of a  
19 qualified donation made under circumstances described in item  
20 (3) of the definition of "qualified donation" set forth in  
21 subsection (d) of this Section, the amount of the credit shall  
22 be 15% of the value of the quantity of the crop donated  
23 computed at the wholesale market price that the grower would

1 have received had the quantity of the crop donated been sold or  
2 salable.

3 (b) For partners, shareholders of Subchapter S  
4 corporations, and owners of limited liability companies, if the  
5 liability company is treated as a partnership for purposes of  
6 federal and State income taxation, the credit under this  
7 Section shall be determined in accordance with the  
8 determination of income and distributive share of income under  
9 Sections 702 and 704 and Subchapter S of the Internal Revenue  
10 Code.

11 (c) In no event shall a credit under this Section reduce  
12 the taxpayer's liability to less than zero. If the amount of  
13 the credit exceeds the tax liability for the year, the excess  
14 may be carried forward and applied to the tax liability of the  
15 5 taxable years following the excess credit year. The tax  
16 credit shall be applied to the earliest year for which there is  
17 a tax liability. If there are credits for more than one year  
18 that are available to offset a liability, the earlier credit  
19 shall be applied first.

20 (d) For the purposes of this Section:

21 "Apparently wholesome food" means:

22 (1) food fit for human consumption; and

23 (2) food that meets all quality and labeling standards  
24 imposed by federal, State, or local laws, even though the  
25 food may not be readily marketable due to appearance, age,  
26 freshness, grade, size, surplus, or other condition.

1       "Crop" means an agricultural crop producing food for human  
2 consumption and includes, but is not limited to, bedding plants  
3 that produce food, orchard stock intended for the production of  
4 food, and livestock that may be processed into food for human  
5 consumption.

6       "Food bank or other charitable organization" means any  
7 organization located in this State, including but not limited  
8 to a gleaning cooperative, that is exempt from federal income  
9 taxes under section 501(c)(3) of the Internal Revenue Code and  
10 that has as a principal or ongoing purpose the distribution of  
11 food to children or homeless, unemployed, elderly, or  
12 low-income individuals.

13       "Qualified donation" means the harvest or post-harvest  
14 contribution in Illinois of a crop or a portion of a crop grown  
15 primarily to be sold for cash that is donated by the grower of  
16 the crop to a food bank or other charitable organization  
17 engaged in the distribution of food without charge, while the  
18 crop is still usable as food for human consumption and:

19           (1) the grower of the crop has supplied any crop  
20 contract quota with the wholesale or retail buyer;

21           (2) if the grower of the crop is a party to a  
22 contingent supply contract, the wholesale or retail buyer  
23 reduces the crop quota that was reasonably anticipated to  
24 be supplied by the grower; or

25           (3) the grower of the crop otherwise determines to make  
26 a donation of apparently wholesome food.

1       "Wholesale market price" means the market price for the  
2 produce determined either by:

3           (1) the amount paid to the grower by the last previous  
4 cash buyer of the particular crop; or

5           (2) in the event there is no previous cash buyer, a  
6 market price based upon the market price of the nearest  
7 regional wholesale buyer or the regional U-Pick market  
8 price.

9       (e) This Section is exempt from the provisions of Section  
10 250.

11       Section 99. Effective date. This Act takes effect upon  
12 becoming law.